

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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MARVIN SMITH SHAHEEN,

Plaintiff,

vs

9:03-CV-1366

T. NOTABARTOLO, Correction Officer,

Defendant.  
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APPEARANCES:

OF COUNSEL:

MARVIN SMITH SHAHEEN  
38889  
Plaintiff, Pro Se  
Westchester County Jail  
P.O. Box 10  
Valhalla, NY 10595

HON. ELIOT SPITZER  
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DAVID FRUCHTER, ESQ.  
Asst. Attorney General

DAVID N. HURD  
United States District Judge

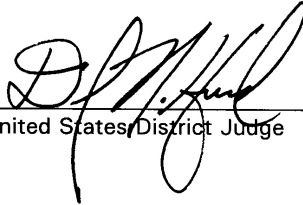
**DECISION and ORDER**

Plaintiff, Marvin Smith Shaheen, brought this civil rights action pursuant to 42 U.S.C. § 1983. By Report Recommendation dated February 22, 2006, the Honorable Gustave J. DiBianco, United States Magistrate Judge, recommended that defendant's motion for summary judgment be denied. The defendant has filed objections to the Report-Recommendation.

Based upon a de novo determination of the portions of the Report-Recommendation to which the defendant has objected, the Report-Recommendation is accepted and adopted in whole. See 28 U.S.C. 636(b)(1). Therefore, it is

ORDERED that defendant's motion for summary judgment is DENIED.

IT IS SO ORDERED.



United States District Judge

Dated: April 13, 2006  
Utica, New York.